

**Village of Irvington
Zoning Board of Appeals**

Minutes of Meeting held on February 25, 2003

A meeting of the Zoning Board of Appeals of the Village of Irvington was held at 8:00 p.m. on Tuesday, February 25, 2003, in the Town Hall, Irvington, N.Y.

The following members of the Board were present:

Louis C. Lustenberger, Chairman
George Rowe, Jr.
Bruce E. Clark
Robert Myers
Robert L. Bronnes
Brian G. Barrett

Mr. Lustenberger acted as Chairman and Mr. Barrett as Secretary of the meeting.

The first order of business was a vote to approve the minutes of the January 2003 meeting. The Chairman moved that the minutes be approved. The motion was seconded and thereupon the minutes were approved.

There were seven matters on the agenda:

Case No.

2003-02 DeNardo Development Corp. – Erie Street – Roland Avenue (Sheet 15; Lot 7)

This matter had been adjourned at the January 2003 meeting of the Board.

Mr. DeNardo and Paul J. Petretti, P.E., appeared for the applicant. The Applicant's property is located in a District that had formerly been IF-20 before being up-zoned to an IF-40 District. The Applicant sought to build a house on its property and proposed a structure that retained at least part of an existing garage, which had become non-conforming as a result of the up-zoning. Mr. Petretti commented that the structure proposed by the Applicant could be built more efficiently than a house that conformed to zoning requirements. Mr. DeNardo pointed out that he would have to remove some trees if he were required to build a structure that conformed to zoning requirements.

The Chairman noted that the Board had received a letter dated February 11, 2003, from Mr. Thomas M. Rothman. When the Chairman gave meeting attendees the opportunity to comment, Mr. Camp questioned whether it was intended, when the property was up-zoned, to grant to the property owner the coverage area applicable to an IF-40 District. Mrs. Linda Leary commented that the Applicant's proposed structure was not consistent with the character of the neighborhood.

The Chairman noted that the variances requested by the Applicant were substantial given that the benefit sought – i.e., the building of a new house – could be achieved by some method feasible by the Applicant to pursue other than the requested variances. Upon motion duly made and seconded, the Board unanimously voted to deny the requested variances.

2003-5 Dellabough/Berry – 19 Maple Street (Sheet 7A; Block 232; Lot 7)

The Applicant appeared by Mr. Mark S. Olson, R.A., who provided the Board with proofs of mailing. The Applicant sought variances from the set-back (§ 224-11) and coverage (§ 224-13) requirements of the Village of Irvington Code to permit the construction of a residential addition in a 1F-5 District. The proposed addition extended the house line at the rear of the existing structure, with the result that the addition would continue an existing 2'6" encroachment into the 10' side-yard set-back requirement. The proposed addition caused the coverage requirement to be exceeded by 14%. Mr. Myers noted that the excess included walkways and the Chairman noted that the proposed addition would not change the character of the neighborhood. Upon motion duly made and seconded, the Board unanimously voted to approve the requested variances.

2003-6 Christine & Michael Brennan – 110 East Sunnyside Lane (Sheet 10; 13A)

The Applicant appeared by Mr. Steven A. Costa, P.E., who provided the Board with proofs of mailing. The Applicant sought variances from the Code's set-back (§ 224-11) requirement to continue an encroachment in side-yard set-backs in order to permit the construction of a proposed second-floor residential addition, which would be built on top of an existing 1 ½-story structure in a 1F-5 District. The Board noted that the proposed second story did not extend the encroachment further into the side-yard set-backs but merely caused the encroachment to continue at the rear of the existing

structure. Upon motion duly made and seconded, the Board unanimously voted to approve the requested variances.

2003-7 Abbey Askari – 196 Riverview Road (Sheet 10; P21D7)

The Applicant appeared by Mr. Richard E. Miller, P.E. The Applicant sought two variances from the Code in connection with the construction of a pool. First, the Applicant sought a variance from the Code's coverage requirement (§ 224-13) to permit a 15' by 23' pool, which would cause such requirement to be exceeded by approximately 8% (258.53 square feet). The Chairman noted that an excess of 8% was not substantial.

Second, the Applicant sought to use an open mesh chain link fence – instead of a solid fence -- to enclose the Applicant's yard. Mr. Miller noted that, given the location of Applicant's property, a solid fence would not make the pool less visible to the Applicant's neighbors and that the Applicant proposed to plant four additional spruce trees on both sides of the proposed pool. The Board noted that the requirement that a fence be a "solid fence" was not intended to afford greater safety, since § 224-60 of the Code contemplated that a hedge would be an adequate substitute. The Chairman noted that the combination of the proposed chain-link fence and existing trees would satisfy the requirements of Code § 224-60.

Upon motion duly made and seconded, the Board unanimously approved the requested variances.

2003-8 Thomas & Holly Harty – 57 Field Terrace (Sheet 13A; P99A)

The Applicant appeared by Christina Griffin, A.I.A., who provided the Board with proofs of mailing. The Applicant sought variances from the set-back (§ 224-11) requirement of the Code to continue an encroachment into the front-yard set-back to permit the construction of proposed extensions in a 1F-40 District. In particular, the Applicant proposed to extend the front façade of the existing house 10' to accommodate a garage extension and 8' to accommodate a family and play room extension. The Chairman noted that the proposed extensions were not significant and that because of the topography of the lot an extension into the backyard of the lot was not a possible alternative. Upon motion duly made and seconded, the Board unanimously approved the requested variance.

2003-9 Sarah & Wilson Van Law – 26 North Dutcher Street (Sheet 5; Block 209; Lot 31)

The Applicant appeared by Mr. Van Law, who sought variances from the Code's set-back (§ 224-11), non-conforming lot (§ 224-89A(1)) and coverage (§ 224-13) requirements in order to permit the legalization of an existing patio at the rear of his house. The Board noted that, while the patio represented a significant excess of coverage, the patio did not create any apparent detriment to the Applicant's neighbors; and that a coverage variance to accommodate a flat surface such as a patio was less significant than a coverage variance to accommodate a structure.

Upon motion duly made seconded, the Board unanimously approved the requested variances.

2003-10 Dr. Geraldine Hall – 200 Mountain Road (Sheet 11; P27J)

Mr. Wayne Timonen appeared for the Applicant and provided the Board with proofs of mailing. The Applicant sought variances from the Code's front yard set-back (§ 224-11) requirement to permit the construction in a 1F-40 District of (i) a proposed 2-car garage and retaining wall and (ii) a proposed one-story utility room. Mr. Timonen explained that under § 224-11(b)(1), the Applicant's front-yard set-back requirement was reduced by 20%, i.e., by 50' to 40', because the planes of all walls of the proposed garage intersected the lot line at a minimum angle of 25 degrees. Mr. Timonen explained further that the proposed 2-car garage would encroach 7', and the proposed one-story utility room 5', into a 40' front-yard set-back requirement. The Chairman noted that such encroachments into a 40' front yard set-back requirement would not be significant, pointing out, in the case of the proposed garage, that the garage roof would be below street level. In connection with the Applicant's proposed garage, the Board also considered the Applicant's request for variance from the front yard set-back requirement for a brick masonry retaining wall, which would extend to meet the street embankment. Upon motion duly made and seconded, the Board unanimously voted to approve the requested front yard set-back variances for (i) the proposed garage, including the retaining wall, and (ii) the proposed utility room.

Mr. Timonen also requested an interpretation of the Code's definitions of "story" and "half story" (§ 224-3). The Board concluded that the top levels of the structures contemplated by the proposed plans were not "stories" within the commonly understood meaning of that term and that the top levels met the definition of "half story" in that less than 50% of the space in the levels exceeded 7'6".

There being no further business, the meeting was, upon motion duly made and seconded, unanimously adjourned.

/s/Brian G. Barrett
Brian G. Barrett